

## Part 5 Conduct of Educators

### **53A-6-501 Board disciplinary action against an educator.**

- (1)
  - (a) The board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:
    - (i) is immoral, unprofessional, or incompetent; or
    - (ii) violates standards of ethical conduct, performance, or professional competence.
  - (b) If the board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the board may dismiss the allegation or decision without an investigation or hearing.
- (2) The board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the board receives an allegation that the educator:
  - (a) was charged with a felony of a sexual nature;
  - (b) was convicted of a felony of a sexual nature;
  - (c) pled guilty to a felony of a sexual nature;
  - (d) entered a plea of no contest to a felony of a sexual nature;
  - (e) entered a plea in abeyance to a felony of a sexual nature;
  - (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
  - (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or
  - (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
    - (i) not a minor; and
    - (ii) enrolled in a school where the educator is or was employed.
- (3) Upon notice that an educator allegedly violated Section 53A-6-502, the board shall direct UPPAC to:
  - (a) investigate the alleged violation; and
  - (b) hold a hearing to allow the educator to respond to the allegation.
- (4) Upon completion of an investigation or hearing described in this section, UPPAC shall:
  - (a) provide findings to the board; and
  - (b) make a recommendation for board action.
- (5)
  - (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the board may:
    - (i) revoke the educator's license;
    - (ii) suspend the educator's license;
    - (iii) restrict or prohibit the educator from renewing the educator's license;
    - (iv) warn or reprimand the educator;
    - (v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;
    - (vi) direct UPPAC to further investigate or gather information; or
    - (vii) take other action the board finds to be appropriate for and consistent with the educator's behavior.

- (b) Upon review of UPPAC's findings and recommendation, the board shall revoke the license of an educator who:
  - (i) was convicted of a felony of a sexual nature;
  - (ii) pled guilty to a felony of a sexual nature;
  - (iii) entered a plea of no contest to a felony of a sexual nature;
  - (iv) entered a plea in abeyance to a felony of a sexual nature;
  - (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
  - (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
  - (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
    - (A) not a minor; and
    - (B) enrolled in a school where the educator is or was employed; or
  - (viii) admits to the board or UPPAC that the applicant committed conduct that amounts to:
    - (A) a felony of a sexual nature; or
    - (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).
- (c) The board may not reinstate a revoked license.
- (d) Before the board takes adverse action against an educator under this section, the board shall ensure that the educator had an opportunity for a UPPAC hearing.

Repealed and Re-enacted by Chapter 311, 2015 General Session

**53A-6-502 Mandatory reporting of physical or sexual abuse of students.**

- (1) For purposes of this section, "educator" means, in addition to a person included under Section 53A-6-103, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.
- (2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the board.
- (3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the board.
- (4) Upon notice that an educator allegedly violated Subsection (2) or (3), the board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53A-6-501.
- (5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Amended by Chapter 311, 2015 General Session

**53A-6-503 Reimbursement of legal fees and costs to educators.**

- (1) As used in this section:
  - (a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:
    - (i) the entity who licenses the educator; and

- (ii) the school district that employs the educator or employed the educator at the time of the alleged act or omission.
- (b) "Educator" means an individual who holds or is required to hold a license under this chapter and is employed by a school district located within the state.
- (c) "School district" includes the Schools for the Deaf and the Blind and the state's applied technology centers.
- (2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:
  - (a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and
  - (b) it is dismissed or results in findings favorable to the educator.
- (3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Amended by Chapter 382, 2008 General Session